

**Illinois Credit Union League**

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March 12, 2004

*VIA Electronic Mail*

ATTN:Ms. Jennifer J. Johnson  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Ave., N.W.  
Washington DC 20551

e-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

**Re: Docket No. R-1176 Comments to Regulation CC Amendments**

We are pleased to respond on behalf of our member credit unions and ICUL Service Corporation to the proposed rule to amend Regulation CC and its commentary. The amendment would implement the Check Clearing for the 21<sup>st</sup> Century Act (Check 21). The Illinois Credit Union League represents over 400 federal and state chartered credit unions.

Although the amendment includes many topics to comment on, we have narrowed our comments to three specific areas. The following areas are of great concern to the ICUL and will be commented on in detail:

- Clarifying that in the event the MICR line on a substitute check does not accurately represent the original check's MICR line, the substitute check will still qualify as the legal equivalent of the original check;
- To develop consistency within Regulation CC, the term "banking day" should be incorporated as it relates to consumer claims; and
- Shortening the model consumer education disclosures

**MICR Line**

Uncertainty in accepting checks, be it electronic, paper or substitute, is one issue that can tear at the fiber of Check 21. Currently, the proposed rule states that when there is failure to correct the amount on the MICR field, the substitute check remains the legal equivalent of the original. In contrast though, the current proposal states that when the error on the MICR field involves the routing/transit numbers, the substitute check is not the legal equivalent of the original. The inconsistency in this approach will create much uncertainty in the handling of substitute checks. Therefore we suggest the Federal

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Reserve clarify that even if the MICR line on the substitute check does not accurately represent the MICR line on the original check, the substitute check would still be considered a legal equivalent of the original check, provided a MICR line is placed on the substitute check. One important result from the above decision would be to remove any doubt the collecting and paying banks might have about the legal status of a substitute check.

### **“Banking Day”**

Currently, the statute measures time using the term “business day,” which is defined as any day other than Saturday, Sunday or a legal holiday. The Board is proposing to use the term “banking day” for re-crediting time limits as it has in other parts of Regulation CC. “Banking day” is defined as “the part of a business day in which an office of a bank is open to the public for carrying on substantially all of its business functions.” We agree with the Board in the belief that “banking day” is an appropriate term when referring to the time at which a bank must begin measuring the time period for re-crediting action.

### **Consumer Disclosures**

We support the requirement of consumer notification, and appreciate the Federal Reserve including helpful sample notices with the proposed rules to guide financial institutions in creating the notices. Our concern is with the overall length of the required notices. Although financial institutions are not required to use the sample notices, history dictates most will, to be protected under the Act’s safe harbor. As is evident in the recent past, lengthy disclosures such as Truth in Savings and Privacy disclosures have been more overwhelming than helpful for many consumers. Therefore we suggest the sample notices include brief descriptions explaining the legal equivalence of a substitute check and consumer rights. Consumers then have a brief background of a substitute check and their rights concerning checks they have written and the re-crediting time frames.

We thank you for the opportunity to comment on the proposed amendments to Regulation CC. Please contact me at 800-942-7124 ext.4263 with any questions concerning the above comments.

Very truly yours,

ILLINOIS CREDIT UNION LEAGUE

By: Niall K. Twomey  
Technical Specialist

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